

REMARKS

It is believed that this application has been amended in a manner that places it in condition for allowance at the time of the next Official Action.

Claims 1-8, 10-14 and 16-19 are pending in the present application. Claims 9 and 15 have been cancelled. Claims 1-8 and 10-14 have been amended. New claims 16-19 have been added to vary the scope of the claimed invention.

In the outstanding Official Action, claim 11 was rejected under 35 USC §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. It is believed that the present amendment obviates this rejection.

The outstanding Official Action rejected claim 11 for reciting the term "like". However, in the interest of advancing prosecution, this term has been deleted from the claim. Thus, it is believed that claim 11 is definite to one of ordinary skill in the art.

In the outstanding Official Action, claims 1-14 were rejected under 35 USC §102(b) as allegedly being anticipated by VAGHEFI 5,875,776. It is believed that the present amendment obviates this rejection.

VAGHEFI discloses a dry powder inhaler for repeated inhalation of pharmaceuticals suspended in a gas (column 4, lines 44-48). The gas may be nitrogen, CO₂ or air. VAGHFI teaches that it is preferable that the inhaler use air. However, independent claims 1, 12 and 16 recite an inhalable medicament that utilizes gaseous nitrogen protoxide (N₂O). As VAGHEFI fails to disclose or suggest the utilization of nitrogen protoxide, it is believed that VEGHEFI fails to anticipate or render obvious the claimed invention.

In the outstanding Official Action, claim 15 was rejected under 35 USC §103(a) as allegedly being unpatentable over VEGHEFI in view of PRITCHARD 5,048,729. It is believed that this rejection has been obviated by the present amendment.

As noted above, claim 15 has been cancelled. Moreover, Applicant notes that PRITCHARD discloses an inhalation device with gaseous propellant having a 70%/30% mixture of diochlorodifluoromethane and trichlorofluoromethane. PRITCHARD fails to disclose or suggest the utilization of gaseous nitrogen protoxide. Thus, Applicant respectfully submits that the proposed combination of VEGHEFI in view of PRITCHARD fails to disclose or suggest the claimed invention.

In view of the present amendment and the foregoing remarks, therefore, it is believed that this application is now in condition for allowance, with claims 1-8, 10-14, and 16-19, as

Application No. 09/920,806
Amdt. dated August 20, 2003
Reply to Office Action of May 20, 2003
Docket No. 0503-1070

presented. Allowance and passage to issue on that basis are accordingly respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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